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|---|-------------|----------------------|---------------------|------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/783,667  | 02/20/2004  | David M. Shilliday   | 53982/297547        | 7279             |
| 7590  |             | 12/10/2008           |                     |                  |
| John S. Pratt, Esq.<br>KILPATRICK STOCKTON LLP<br>Suite 2800<br>1100 Peachtree Street<br>Atlanta, GA 30309-4530 |             |                      | EXAMINER            |                  |
|   |             |                      | WILHELM, TIMOTHY    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3616                |                  |
|   |             |                      | MAIL DATE           | DELIVERY MODE    |
|   |             |                      | 12/10/2008          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                                       |   |
|------------------------------|---------------------------------------|---|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/783,667  | <b>Applicant(s)</b><br>SHILLIDAY ET AL. |
|                              | <b>Examiner</b><br>Timothy D. Wilhelm | <b>Art Unit</b><br>3616                 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 August 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4,6 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4,6, and 15-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-146/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action was made in response to an amendment filed by Applicant on 8/25/2008.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,4-6,13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeft et al (6,758,490) in view of Walsh (7,048,301). Hoeft et al disclose a protective device for an occupant of a vehicle comprising an inflator, an inflatable cushion 2 having first and second portions 48,56, the first portion being directly above the second portion 48 when the vehicle is upright, and in which inflation of the second portion 48,56 commences before inflation of the first portion. Though this is not specifically disclosed by Hoeft et al, as inflation conduit 56 is considered to be part of the second portion, it may be seen that inflation gas has to enter conduit 56 and, for that matter, portion 48 before entering the designated first portion of the airbag. Thus, inflation of the second portion 48,56 commences before inflation of the first portion. The first portion comprises a plurality of nodes 65 separated by uninflated material 63 abutting each node and adjacent the vehicle's roof rail, wherein the nodes

are adapted, when inflated, to be positioned at approximately head and torso level of the occupant. Hoeft discloses the present invention except for the second portion comprising a material that decreases in length and is distributed substantially uniformly and continuously throughout the second portion when inflated so as to create tension. Walsh teaches a side curtain airbag 42 comprising a first portion 66 disposed directly above a second portion 64, wherein the second portion 64 comprises a material that decreases in length when inflated so as to increase tension. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the airbag of Hoeft et al with the teaching of Walsh's length decreasing material to increase tension in the second portion and thus better cushion and restrain passengers against lateral impact.

#### ***Response to Arguments***

1. Applicant's arguments filed 8/25/2008 have been fully considered but they are not persuasive. Applicant argues that no basis exists for including length-decreasing material in the second portion 48 of the Hoeft reference due to the fact that the second portion of Hoeft lacks any tethering. However, the teaching reference, Walsh, teaches an airbag comprising a portion having length-decreasing material wherein the portion with said length-decreasing material is taught to be anchored to the vehicle through tethers connected to attachment points 72 and 74 (Fig. 2). One of ordinary skill in the art would have recognized this and included such tethering means in the combination

should they find it necessary. The limitation of tethers, however, was not added by Applicant in the claims up to this point and therefore was not addressed by Examiner.

***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3616

Timothy D Wilhelm  
Examiner  
Art Unit 3616

/Timothy D Wilhelm/  
December 4, 2008